

REMARKS

Claims 1, 3, 6, 8, 11, 26, 28, 42-47 and 49 are currently pending. Claims 1, 6, 11, 26, and 49 have been amended. Claims 1 and 6 have been amended to recite first and second loop containing sections or first circumferential bands joined directly to adjacent third loop containing sections or second circumferential bands, respectively, without any intervening materials. Claim 49 has been further amended to recite that the stent as described "consists essentially of" said claim limitations. Support for these amendments is found throughout the specification, inter alia on pages 8 and 10-12, as well as Figures 3 and 5. Claims 11 and 26 have been amended to recite that the circumferential bands described therein are each formed of a single, continuous, generally sinusoidal pattern of loops. Support for these amendments is found throughout the specification, inter alia on page 8, as well as Figures 3 and 5.

No new matter has been added. No new issues of patentability are raised by the instant amendments.

Response To Rejection Under 35 U.S.C. §103 Based On Brown

1. Based on Brown in view of Burpee

Claims 1, 6, 11, 26, 42-47 and 49 have been rejected under 35 U.S.C. §103(a) as being unpatentable over Brown et al (6,776,793 B2) in view of Burpee et al. (6,179,868 B1). Applicants respectfully disagree with this rejection.

Independent Claims 1, 6, 11, 26 and 49 recite a stent having first circumferential bands or first and second loop containing sections occurring at a first frequency, alternating with second circumferential bands or third loop containing sections at a second, higher frequency. Each of said circumferential band or loop containing section is formed of a single, continuous, generally sinusoidal band. The lower frequency bands or sections are connected directly to the higher frequency bands or sections without other intervening materials to form triangular cells.

Brown specifically teaches away from the stent described by the present claims. Specifically, Brown describes "interconnecting elements 144" that join the "adjacent first and second band-like elements 120 and 132" (see, e.g., Brown, 6:6-17), identified by

the Examiner as "loop containing sections/bands of higher frequency" and "loop containing sections/bands of lower frequency." Thus, as illustrated below in Fig. 2 of Brown, as cited by the Examiner, Brown does not teach or suggest a stent in which low frequency circumferential bands or loop containing sections, each formed of a single, continuous, generally sinusoidal band, are joined directly to high frequency circumferential bands or loop containing sections without intervening material.

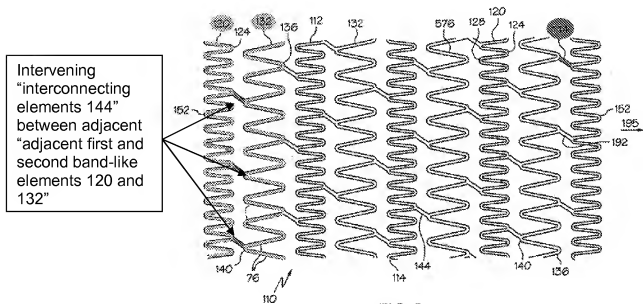


FIG. 2

Furthermore, independent Claim 49 recites a stent consisting essentially of first and second loop containing sections joined to one another exclusively by third loop containing sections. The transitional phrase "consisting essentially of" limits the scope of a claim to the specified materials or steps "and those that do not *materially* affect the basic and novel characteristic(s)" of the claimed invention. *In re Herz*, 537 F.2d 549, 551-52, 190 USPQ 461, 463 (CCPA 1976) (emphasis in original); *see also* MPEP §2111.03. By contrast, as illustrated above, Brown teaches the addition of intervening "interconnection elements," in contradiction to the explicit limitations of present Claim 6. The additional "interconnection elements" of Brown materially affect the basic structure of the stent in a manner that is explicitly excluded under present Claim 49.

Burpee likewise incorporates intervening materials to connect adjacent bands, as illustrated below in Fig. 3, as cited by the Examiner.

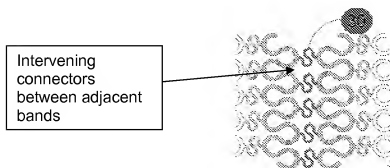


FIG. 3

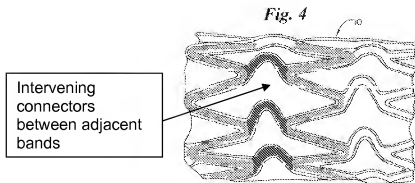
Burpee therefore does not remedy the deficiencies of Brown.

Reconsideration and withdrawal of the rejections under 35 U.S.C. §103(a) as to 1, 6, 11, 26, 42-47 and 49 is respectfully requested for the above reasons.

2. Based on Brown in view of Burpee and further in view of Yang

Claims 3, 8 and 28 have been rejected under 35 U.S.C. §103(a) as being unpatentable over Brown in view of Burpee and further in view of Yang et al. (6, 120, 847. Applicants respectfully disagree with this rejection.

As discussed above, Brown does not teach or suggest a stent having low frequency circumferential bands or loop containing sections joined directly to adjacent high frequency circumferential bands or loop containing sections without intervening materials, as recited by the present claims. Yang, like Burpee, does not remedy the deficiencies of Brown. Yang also teaches bands intervening material connecting adjacent circumferential bands or loop containing sections, as illustrated by Fig. 4 of Yang below.



Thus, in view of Burpee, Yang, or both considered together, Brown does not teach or suggest a stent having low frequency circumferential bands joined directly to adjacent high frequency circumferential bands or loop containing sections without intervening materials.

Reconsideration and withdrawal of the rejections under 35 U.S.C. §103(a) as to 3, 8 and 28 is respectfully requested for the above reasons.

CONCLUSION

Based on the foregoing amendments and remarks, applicant respectfully requests reconsideration and withdrawal of the rejections of the pending claims and requests allowance of this application.


AUTHORIZATION

The Commissioner is hereby authorized to charge any additional fees which may be required for consideration of this Amendment to Deposit Account No. 50-4387, Order No. 92077.003.

In the event that an extension of time is required, or which may be required in addition to that requested in a petition for an extension of time, the Commissioner is requested to grant a petition for that extension of time which is required to make this response timely and is hereby authorized to charge any fee for such an extension of time or credit any overpayment for an extension of time to Deposit Account No. 50-4387, Order No. 92077.003.

Respectfully submitted,
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